

REMARKS

Claims 1-3 have been examined in the present application. Claims 1 and 2 have been amended to more clearly define the claimed invention. It is believed and intended that no new matter is added by this amendment. The Applicant respectfully requests reconsideration and allowance of all claims in view of the following remarks.

Claim Objections

The Examiner objected to Claim 1 as including a listed informality. Claim 1 has been amended to overcome this objection. The amendment to Claim 1 merely makes explicit a feature already claimed implicitly and, therefore, does not narrow the scope of Claim 1. Accordingly, withdrawal of the objection of claim 1 is requested.

Claim Rejections under 35 U.S.C. § 102

The Examiner rejected Claim 1 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,651,578 to Mistopoulos et al. (hereafter referenced as Mistopoulos). The Applicant respectfully traverses this rejection for at least the following reasons.

An apparatus consistent with the claimed invention includes a seal structure of a door mirror mounting portion including a mirror base portion, a seal member, and a weather strip. The mirror base portion is mounted to a door panel. The seal member is held between the mirror base portion and the door panel. The weather strip is provided in the door panel and seals a gap between the door panel and a front pillar. A surface of the door panel to which the mirror base is mounted is offset to an inner side of a passenger room from a general surface other than the door mirror

mounting portion. The seal member is extended to a side of the front pillar so as to be brought into contact with the weather strip and closes a gap between the mirror base portion and the front pillar.

Mistopoulos discloses a four-sided flush weather strip sealing system including sealing arrangements for a window panel along a vehicle door rear view mirror and a B pillar portion located below the vehicle door belt-line (Abstract). First and second elements 36 and 38 form part of a weather strip sub-assembly for sealing a window panel along a vehicle door rear view mirror or sail (col. 3, lines 39-42).

Mistopoulos does not teach each and every element of the claimed invention as required by 35 U.S.C. § 102, and the Examiner is respectfully requested to withdraw the present rejection accordingly. For example, Claim 1 sets forth a seal structure of a door mirror mounting portion which closes a gap between the mirror base portion and the front pillar. On the contrary, Mistopoulos is almost silent about the seal structure between the door mirror and the front pillar (referenced as an A pillar 14, *see* col. 3, line 6). Though the Examiner cited Fig. 6 of Mistopoulos as disclosing the presently claimed elements, Fig. 6 instead shows a sealing arrangement between the door mirror and a door assembly (*see* col. 2, lines 51-54). With reference to the other Figs., the front pillar would appear to be positioned far to the left of the area shown in Fig. 6 and therefore *cannot* be the structure shown as being sealed by the Fig. 6 assembly.

More specifically, Mistopoulos fails to disclose a seal member held between the mirror base portion and the door panel. The Examiner characterizes element 36, shown in Fig. 6, as being the presently claimed seal portion. However, the Applicant must respectfully object to this characterization because element 36 of Mistopoulos is not held between a mirror base portion and a door panel, but is instead held between a mirror plate 248 and a guide rim 232 of the window panel,

which is a guiding member for opening and closing the window and is *not* a front pillar (col. 6, lines 61-65; Fig. 6).

Additionally, Mistopoulos does *not* disclose a weather strip provided in the door panel and sealing a gap between the door panel and a front pillar, as presently claimed. The Examiner characterizes element 38 of Mistopoulos as being such a weather strip, but according to Fig. 6, element 38 instead seals a gap between a trim panel 222 and a guide rim 232 of the window panel and does not appear to contact the front pillar 14 of Mistopoulos (col. 6, lines 36-67; Fig. 6). The trim panel 222 composes a sealing subassembly and is fastened to an inner panel 226 which composes a door panel (col. 6, lines 36-50). Therefore, the trim panel 222 is distinguished from the door panel. Furthermore, as above, the guide rim 232 is clearly distinguished from the front pillar 14 of Mistopoulos.

Finally, the Examiner appears to rely heavily upon Fig. 6 of Mistopoulos in issuing the present rejection. After diligent searching, the Applicant is unable to locate the front pillar 14 in Fig. 6 and respectfully requests clarification from the Examiner regarding the location of this element in Fig. 6.

The Examiner has not shown that each element of the claimed invention is disclosed by the reference, and no *prima facie* rejection has been made. The above argued structural differences between the claimed invention and Mistopoulos' structure undermines the factual determination that Mistopoulos discloses a structure identically corresponding to that claimed. *Minnesota Mining & Manufacturing Co. v. Johnson & Johnson Orthopaedics Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992); *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 230 USPQ 81 (Fed. Cir. 1986). Applicant, therefore, submits that the imposed rejection of claim 1 under 35 U.S.C. § 102 for

lack of novelty as evidenced by Mistopoulos is not factually viable and, hence, solicit withdrawal thereof.

Conclusion

The Applicant gratefully acknowledges the Examiner's indication that Claims 2 and 3 contain allowable subject matter. Applicant has recast Claim 2 in independent form to include the limitations of Claim 1. In view of the above remarks and amendments, the Applicant submits that all claims of the present application are in allowable condition. Therefore, timely reconsideration and allowance of the Claims 1-3 is respectfully requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees but not issue fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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